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INDIANA FEDERAL DISTRICT COURT
SOUTHERN DISTRICT

REBECCA JANE HANKINS, DAVID JAMES
ROACH,,

Plaintiff,

vs.

SHERRI BENTLEY, MONTGOMERY COUNTY
ASSESSOR, WINGATE PROPERTIES LLC BY
VINCENT C. KREGAR.35277-49, BY
ATTORNEY WAYNE GREESON BAR# 12644-
98 MONTGOMERY COUNTY,

Defendant

Case No.: 1:22-cv-00080-JMS-DLP

ORDER NUNC PRO TUNC

COMES NOW MAGISTRATE JUDGE DORIS L. PRYOR TO GRANT
PLAINTIFFS ORDER NUNC PRO TUNC FOR THE FOLLOWING REASONS.:

1. Plaintiffs are correct in stating Exhibit 20A Loper Bright Enterprises v. Raimondo, --- S.Ct. ---- (2024) The decision does return the authority to interpret law to the Federal courts, the ruling said; Federal courts must now “exercise their independent judgment in deciding whether an agency has acted within its statutory authority” rather than using Chevron to defer their judgment. This is exactly what plaintiffs have alleged that the taxiing agency has acted outside its statutory authority”. Recitals in public statutes of matters of fact are admissible as evidence of such facts. So, this court must now “exercise its independent judgment granted under Loper Bright Enterprises v. Raimondo, --- S.Ct. ---- (2024) in deciding whether the agency has acted within its statutory authority”. Plaintiffs are also correct in stating:

1 The Southern District Court to has a duty under McKart v. United States in
2 Exhibit 22 G No. 403 U.S. McKart v. United States 395 U.S. 185 (1969) • 89
3 S. Ct. 1657 Decided May 26, 1969. The duty to intervene immediately & stop
4 the Defendants from unlawfully expanding & usurping jurisdiction and powers,
5 limited by constitutional provisions, & state statutes. This court clearly has
6 the jurisdiction to rule and execute the emergency stay sought. Further this
7 court clearly has the jurisdiction to rule in deciding whether the agency has
8 acted within its statutory authority”. This court also clearly has the
9 jurisdiction to rule on the Due process violations **for failure to do service of**
10 **process** and alleged color of law violations under Title 42 section 1983, &
11 The All Writs Act 28 U.S.C. § 1651(a).

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15 2. Plaintiffs are correct in stating: the Anti-Injunction Act, not the Tax Injunction
16 Act, is applicable where federal parties are seeking an injunction against the
17 conduct of a state case in which the state plaintiffs seek to enjoin the
18 assessment of state taxes. Exhibit 31L 21 C.J.S. Courts § 295 Effect of Tax
19 Injunction Act. If an injunction falls within any one of the foregoing three
20 exceptions, the All Writs Act, which provides that federal courts have power to
21 issue all writs necessary or appropriate in aid of their respective jurisdictions
22 and agreeable to the usages and principles of law,⁶ provides the positive
23 authority for federal courts to issue injunctions of state court proceedings.⁷ In
24 turn, the federal court's authority to issue an injunction under the All Writs Act
25 is limited by the Anti-Injunction Act, which prohibits federal courts from
26 enjoining state court proceedings unless one of the three narrow exceptions
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1 applies. 21 C.J.S. Courts § 296 Exceptions to Anti-Injunction Act, generally;
2 effect of All-Writs Act. Plaintiffs' claims do fall within the three narrow
3 exceptions. First Congress expressly authorizes suits against those acting
4 under **color of state law** for violations of **Due process**, federal law and for
5 violations of the **U.S. Constitution** and applicable **constitutional provisions**
6 both federal and state.
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8 Plaintiffs have sued under **42 U.S.C. § 1983**. Section 1983 which authorizes
9 suits against those **acting under color of state law** for violations of **Due**
10 **process**, Color of law, federal law, and for violations of the **U.S. Constitution**
11 and applicable **constitutional provisions** both federal and state. For the
12 usurpation and unlawful expansion of authority not granted
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- 14 3. Plaintiffs correct, The Rooker-Feldman doctrine doesn't apply Because the
15 Rooker-Feldman doctrine is not a constitutional doctrine, & Congress may
16 expressly authorize federal district courts to review state court judgments. 1.
17 Exhibit 28F 21 C.J.S. Courts § 285 Exceptions to Rooker-Feldman doctrine;
18 statutory authorization. Plaintiffs have sued under **42 U.S.C. § 1983**. Section
19 1983 which authorizes suits against those **acting under color of state law**
20 for violations of **Due process**, Color of law, federal law, and for violations of
21 the **U.S. Constitution** and applicable **constitutional provisions** both federal
22 and state. The Rooker-Feldman doctrine does not, however, bar jurisdiction
23 when the plaintiff's claim: That when an A.L.J. is ruling on cases for the
24 Department of Revenue they exercise administrative or ministerial functions
25 they do not act as a court, but in their capacity as a corporation and that their
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orders are not judgments, but are administrative orders. So, there is no state court judgement to be protected by The Rooker-Feldman doctrine only an administrative order."It has become thoroughly settled in this court, that the board of commissioners are clothed by statute with administrative or ministerial powers, and also with judicial powers. "When they exercise administrative or ministerial functions they do not act as a court, but in their capacity as a corporation. Hyde v. Board of Commissioners of Wells County 198 N.E. 333 (Ind. 1935) Cited 13 times Also see: Lincoln v. Bd. of Com'rs of Tippecanoe 510 N.E.2d 716 (Ind. Ct. App. 1987) Cited 17 times & see: Great Lakes Transfer v. Porter County 952 N.E.2d 235 (Ind. Ct. App. 2011) Cited 6 times. This being true, it follows that the proceedings before such body are not judicial proceedings, and that their orders are not judgments, but are administrative orders." Public Service Comm. v. Cleveland, Cincinnati, Chicago and St. Louis Railway Co. (1918), 188 Ind. 197, 201, 202, 121 N.E. 116, 118; See Southern Indiana Railway Co. v. Railroad Commission of Indiana (1909), 172 Town of Merrillville v. Lincoln Gardens Utils 170 Ind. App. 245 (Ind. Ct. App. 1976) Cited 6 times

4. Plaintiffs correct (Exhaustion of administrative remedies will not be required where the governmental entity involved has violated the petitioner's rights of Due Process by disregarding specific and unambiguous statutory, regulatory, or constitutional directives). *McKart v. United States*, [395 U.S. 185, 193-95](#), [89 S.Ct. 1657](#), [23 L.Ed.2d 194](#) (1969); *Cox v. Guy F. Atkinson Co.*, [468 F. Supp. 677](#) (N.D.Ind. 1979). The "clear right" exhaustion exception is generally

1 accepted and formulated as follows: if an agency violates a clear right of a
2 petitioner by disregarding a specific and unambiguous statutory, regulatory, or
3 constitutional directive, a court will not require the petitioner to exhaust his
4 administrative remedies and will intervene immediately. See, e. g., *Rosenthal*
5 *Co. v. Bagley*, [581 F.2d 1258, 1261](#) (7th Cir. 1978). A "clear" constitutional
6 right is one likely to be "ultimately" accepted by the Supreme Court. *Id.* at
7 1262.
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10 Magistrate Judge Doris L. Pryor hereby grants plaintiffs ORDER NUNC PRO
11 TUNCto reinstate plaintiffs' suit under cause# 1:22-cv-00080-JMS-DLP. This
12 order will make it as though plaintiffs case was not dismissed effective this
13 day _____ of July, 2024. This court clearly has the jurisdiction to rule and
14 execute the emergency stay sought. Further this court clearly has the
15 jurisdiction to rule in deciding whether the agency has acted within its
16 statutory authority". This court also clearly has the jurisdiction to rule on the
17 Due process violations **for failure to do service of process** and alleged
18 color of law violations under Title 42 section 1983, & The All Writs Act 28
19 U.S.C. § 1651(a). & *Loper Bright Enterprises v. Raimondo*, --- S.Ct. ----
20 (2024).
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23 Dated this day _____ of July, 2024.
24

25 _____
26 Magistrate Judge Doris L. Pryor
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Parties served

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Documents served

Proposed Order to show cause

Proposed Order for emergency stay of writ of Assistance

Proposed Order Nunc pro Tunc

Motion for emergency stay of writ of Assistance

Affidavit of fact for Nunc pro Tunc Order

Exhibits

Exhibit 20I Ind. Code § 5-3-1-4, Exhibit 20J Section 6-1.1-4-13.6 - Determination and review of land values, Exhibit 20K Section, 6-1.1-24-3 - Notice of auction sale, Exhibit 22 B Marion Cnty. Assessor v. Kohl's Ind., LP, Exhibit 22 C Department of Revenue v Brookwood Associates Ltd, Exhibit 20H Covell v. City of Seattle, 127 Wash.2d 874 (1995), EXHIBIT 22F 21 C.J.S. Courts § 296 Exceptions to Anti-Injunction Act, generally; effect of All-Writs Act, Exhibit 22 G McKart v. United States, EXHIBIT 29 A 21 C.J.S. Courts § 247 Nunc pro tunc entries, Exhibit 23A Attorney General of Louisiana Opinion Number 99-401Apr 28, 2000, Exhibit 20A Loper Bright Enterprises v Raimondo (2024), Exhibit 20B Section 6-1.1-2-4 - Liability for property tax;, Exhibit 20C Triangle Marine Inc v Savoie, Exhibit 20D

1 Hamilton Square Inv., LLC v. Hamilton County. Assessor, Exhibit 20E Jarkesy v Securities and Exchange
2 Commission, Exhibit 20G AMERICAN LAW REPORTS Fact sheet-HR, AMERICAN
3 JURISPRUDENCE, CORPUS JURIS SECUNDUM, Exhibit 31L 21 C.J.S. Courts § 295 Effect
4 of Tax Injunction Act, Exhibit 28F 21 C.J.S. Courts § 285 Exceptions to Rooker-Feldman doctrine;
5 statutory authorization, Exhibit 20M Section 6-1.1-24-1 - Delinquency list; certification, Exhibit 20N
6 Section 6-1.1-20.6-4 - Residential property, Exhibit 20O Wit of Assistance,

7
8 Certificate of Service

9 i/we Rebecca Hankins and David Roach hereby certify that a copy of the forgoing
10 documents, were served upon the above forgoing interested parties and counsel of record by email. In
11 accordance with Federal Rules of Civil procedure rule 5.

12 Dated this 13th day of July, 2024. Electronically signed

13 Rebecca Jane Hankins

14 Rebecca Jane Hankins

15 David James Roach

16 David James Roach